UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION

ASHEVILLE, N. C.

CIVIL NO. 1:05CV42

JUH - 9 2005

UNITED STATES OF AMERICA,)	U.S. DISTRICT COURT W. DIST. OF N. C.
Plaintiff,)	
v.)	
\$35,825.00 IN UNITED STATES CURRENCY)	FINAL ORDER OF FOFEITURE BY CONSENT
Defendant.	

Whereas, the **COURT FINDS** that:

On February 18, 2005, the United States filed a verified complaint in this civil forfeiture case in rem under 18 U.S.C. § 981 and 21 U.S.C. § 881,

The complaint alleged that the defendant property was proceeds of, or was used or intended to be used to facilitate, illegal drug-trafficking, in violation of Title II of the Controlled Substances Act, 21 U.S.C. § 801, et seq.,

On February 18, 2005, a Waiver of Claim and Notice and a Consent to Forfeiture was filed by potential claimant Thomas Edward Effler, Jr.

On February 18, 2005, a Waiver of Claim and Notice and a Consent to Forfeiture was filed by potential claimant Sandra Lynn Effler.

On February 18, 2005, a Settlement Agreement was jointly filed by the United States and Thomas Edward Effler, Jr. In that Agreement, the United States agreed to return the sum of \$14,330 from the defendant property to Thomas Edward Effler, Jr.

UUUUMENT SCANNED Service was issued by publication of public notice in *The McDowell News*, Marion, North Carolina, a newspaper of general circulation, on March 28, April 4, and April 11, 2005.

On June 7, 2005, the court entered default against all persons and entities except Sandra Lynn Effler and Thomas Edward Effler, Jr.

There is probable cause for forfeiture of the defendant property and the United States

District Court for the Western District of North Carolina has *in rem* jurisdiction over the defendant property.

The United States, Sandra Lynn Effler, and Thomas Edward Effler, Jr. have agreed to the forfeiture of the defendant property.

Thomas Edward Effler, Jr. has released and forever discharged the United States, its officers, agents, servants and employees, its successors or assigns, and all state or local governmental entities or law enforcement agencies in North Carolina and their officers, agents, servants and employees, their heirs, successors, or assigns, from any and all actions, causes of action, suits, proceedings, debts, dues, contracts, judgments, damages, claims, and/or demands whatsoever in law or equity which claimants or their heirs, successors, or assigns ever had, now have, or may have in the future in connection with this investigation, seizure, detention, and forfeiture.

The United States and Thomas Edward Effler, Jr. have agreed to bear their own costs, including attorney's fees.

Based on the foregoing findings, IT IS HEREBY ORDERED, ADJUDGED, AND

DECREED that:

- 1. Any and all right, title and interest of all persons in the world in or to the defendant property is hereby forfeited to the United States, and no other right, title, or interest shall exist therein;
- 2. In accordance with the Settlement Agreement, the sum of \$14,330.00 from the defendant property is to be paid to Thomas Edward Effler, Jr;
- 3. The United States Marshal is hereby directed to dispose of the forfeited defendant property as provided by law;
- 4. The United States and Thomas Edward Effler, Jr. shall bear their own costs of this action, including attorneys fees.

Signed this the 9th day of 9th

LACY H. THORNBURG

Date:

UNITED STATES DISTRICT COURT JUDGE

ON MOTION OF THE UNITED STATES OF AMERICA WITH PRIOR FILED CONSENT OF THOMAS EDWARD EFFLER, JR. AND SANDRA LYNN EFFLER

GRETCHEN C.F. SHAPPERT

United States Attorney

THOMAS R. ASCIK

Assistant United States Attorney